

DISCLAIMER

This electronic version of an SCC order is for informational purposes only and is not an official document of the Commission. An official copy may be obtained from the [Clerk of the Commission, Document Control Center](#).

COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

AT RICHMOND, MAY 21, 2001

APPLICATION OF

THE POTOMAC EDISON COMPANY
d/b/a ALLEGHENY POWER

CASE NO. PUE000280

For approval of functional
separation plan

and

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. PUE000736

Ex Parte: THE POTOMAC EDISON
COMPANY d/b/a/ ALLEGHENY POWER
REGIONAL TRANSMISSION ENTITIES

ORDER

The Potomac Edison Company d/b/a Allegheny Power Company ("AP" or "Company") filed an application in Case No. PUE000280 on October 16, 2000, requesting that the State Corporation Commission ("Commission") accept AP's October 5, 2000, Memorandum of Agreement ("MOA") with the PJM Interconnection, L.L.C. ("PJM"), an independent system operator ("ISO"), as satisfying the Company's obligation under the Virginia Electric Utility Restructuring Act ("Act"), § 56-576 et seq. of the Code of Virginia, to join or establish a regional transmission entity ("RTE") no later than January 1, 2001.

By Order dated December 20, 2000, we established Case No. PUE000736 for the purpose of considering the matters set forth in the October 16, 2000, application separate and apart from the issues remaining in Case No. PUE000280. Our December 20 Order set out a procedural schedule for the receipt of comments or requests for hearing on AP's proposal and directed our Staff to investigate the application and report its findings. No comments or requests for hearing were received.

The Company's proposal is a commitment in principle to establish, along with at least one other utility based in Pennsylvania, an RTE to be known as "PJM West." The Company indicated an intent, should we determine that the MOA satisfied the statutory obligations mentioned above, to file an application, on or about September 15, 2001, to transfer control of its transmission assets to PJM West. In so doing, the Company effectively seeks waivers of Rules 20 VAC 5-320-90 and -120, until September 15, 2001.

On April 16, 2001, the Commission Staff filed the report of its investigation of the application. The report updates and describes the PJM West concept, comments on and makes recommendations as to the Company's request for a finding that the MOA satisfies the statutory obligation to "join or establish" an RTE, and comments on and makes recommendations as

to the appropriate deadline we should establish for the Company to file its transfer application.

In its report, Staff notes that the question of whether AP managed to "join or establish" an RTE by January 1, 2001, is unclear, since PJM West is not yet an established entity. Nonetheless, Staff believes that AP "complied with the spirit of the Act since it has undertaken a serious effort to be a member of an operational RTE by January 1, 2002, a date that coincides with the initiation of retail access in the Company's Virginia service territory."

As Staff further reports, the creation or expansion of an RTE is "an extremely complex undertaking" that could, if not done deliberately and correctly, "seriously undermine safety and reliability as well as exacerbate or promote the potential for market power abuse." In Staff's view, a rushed RTE formation effort could result in poorly conceived policies or might not allow for adequate stakeholder participation.

The Commission is inclined to concur with our Staff's assessment of AP's efforts to establish the PJM West. We believe the Company has substantially complied with the spirit of the Act. We will also grant a waiver of Rule 20 VAC 5-320-120 to allow the Company to file its transfer application after October 16, 2000, and, as recommended by Staff reject the effective request for waiver of Rule 20 VAC 5-320-90 and direct

the Company to file information required by this Rule on or before July 15, 2001.

Accordingly, IT IS ORDERED THAT:

(1) On or before July 15, 2001, AP shall file all information required in Rule 20 VAC 5-320-90.

(2) The Company's request for a waiver of Rule 20 VAC 5-320-120 is granted, and the Company shall file its application to transfer control of its transmission assets on or before September 15, 2001.

(3) This matter is continued for further orders of the Commission.